

INDIVIDUAL PRACTICE RULES OF
MAGISTRATE JUDGE GARY R. BROWN
100 Federal Plaza
P.O. Box 9014
Central Islip, NY 11722-9014
Courtroom 840
Chambers: (631) 712-5700
Fax: (631) 712-5705
Courtroom Deputy Lauren Brienza: (631) 712-5704

I. COMMUNICATIONS WITH CHAMBERS & FILING REQUIREMENTS

A. *Telephone Calls*

All questions regarding criminal matters should be directed to Lauren Brienza. Other questions should be directed to the Law Clerks at the main Chambers number.

B. *Written Communications*

All written communications sent to the Court are to be filed via ECF unless otherwise directed by the Court, with copies simultaneously delivered to all parties, and with service on all parties indicated on the face of the letter of the document.

C. *Faxes*

Faxes are permitted only for time sensitive requests that have already been electronically filed. **Faxes may not exceed four pages, including cover sheet and attachments.** Papers faxed to Chambers must also be simultaneously faxed to all other parties.

D. *Requests for Adjournments or Extensions of Time*

All requests for adjournments of a court appearance, absent an emergency, shall be made **in writing at least 48 hours prior to the scheduled appearance.** Further, all requests for adjournments or extensions of time must state: (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether those previous requests were granted or denied, (4) **the reason(s) why an adjournment or extension is necessary,** and (5) whether the adversary consents (including any reasons given by the adversary for withholding consent). Both requests for adjournments and for extensions of time **must** be filed electronically as "MOTIONS." If the requested adjournment or extension affects any other scheduled date, a proposed revised date(s) must be provided. Courtesy copies of time sensitive submissions, such as requests for adjournments of imminent conferences or deadlines, **must also be faxed** to Chambers.

E. Electronic Case Filing (ECF) Requirements

1. Regardless of the district judge assigned, **all documents** directed to Magistrate Judge Brown in civil actions **MUST** be filed electronically, except as stated below. ECF procedures are available on the Court's website.
2. In all cases assigned to Magistrate Judge Brown, no matter which district judge is assigned, attorneys must make an appearance and register to receive ECF notifications prior to filing any letters, motions or other documents.
3. All orders issued by Magistrate Judge Brown will be transmitted to counsel only electronically. Hard copies will not be mailed to attorneys. Accordingly, attorneys are responsible for keeping their e-mail addresses current with the Clerk's Office. Court orders will be provided to *pro se* litigants by U.S. mail.
4. Hard copies or courtesy copies should not be sent to Chambers, with the following exceptions: (1) letter motions with exhibits or attachments exceeding 20 pages, or (2) motions referred from District Court Judges. All such papers must be clearly marked "Courtesy Copy" and indicate that the original was filed by ECF.
5. The following documents are exempt from electronic filing and should only be filed in hard copy: (1) documents filed under seal or subject to a court-ordered confidentiality agreement, and (2) *ex parte* settlement statements. The parties are directed to review the ECF User's Guide accessible from the District webpage for further instructions regarding the electronic filing of large documents, non-text exhibits, and documents under seal.
6. *Exemptions.* Litigants proceeding *pro se* are exempt from ECF requirements. Parties represented by counsel, however, must file documents electronically, even in *pro se* cases.

II. MOTIONS

A. Pre-motion conferences are not required for any motions submitted to Magistrate Judge Brown.

B. Discovery or Other Non-Dispositive Motions

Litigants shall make discovery or other non-dispositive motions by letter motion, pursuant to Local Civil Rules 37.3. A letter motion must be filed electronically as a "MOTION," not a letter, and may not exceed three pages in length, exclusive of attachments. A response not exceeding three pages in length, exclusive of attachments, must be served and filed within three business

days of receipt of the letter motion. Replies are not permitted on letter motions. Parties must make a good faith effort, pursuant to Local Civil Rule 26.4 and FRCP 37(a)(1), to resolve disputes, including discussion either by telephone or in person, **before** making a motion. Failure to comply with this requirement, or to include a certification of such efforts consistent with FRCP 37(a)(1), will result in the denial of such application.

C. Dispositive Motions

Dispositive motions, such as motions to dismiss and motions for summary judgment, must be made to the presiding district court judge, in conformance with his or her individual rules, unless the parties have consented to Magistrate Judge Brown's jurisdiction for all purposes in accordance with 28 U.S.C. § 636 (c)(1). Where the parties have so consented, the following rules apply to dispositive motions:

1. **Schedule:** The parties are to set their own briefing schedule which is then to be submitted to the Court for approval. No revisions to the schedule will be made without the Court's approval.
2. **Memoranda of Law:** Memoranda of law in support of and in opposition to motions on notice are limited to 20 pages, and reply memoranda are limited to 10 pages. Case citations must contain pinpoint cites. All memoranda of law must use reasonable margins, double spacing, and a reasonable font. Legal arguments must be set forth in a memorandum of law rather than in affidavits or affirmations. *See* Local Civil Rule 7.1. **Any memoranda, affidavits, or affirmations not complying with the requirements set forth herein will be rejected.**
3. **The "Bundling" Rule:** No motion papers shall be filed until the motion has been fully briefed. The movant shall be responsible for filing all of the motion papers on the date the reply brief is scheduled to be filed or any return date stated in the approved briefing schedule.
4. **Courtesy Copies:** After electronic filing, one hard copy of the motion papers, marked as "Courtesy Copy," should be submitted to Magistrate Judge Brown. Bound exhibits must be tabbed. Courtesy copies of dispositive motions made to the district judge should **not** be provided to the magistrate judge.
5. **Oral Argument:** Where the parties are represented by counsel, oral argument will be held on motions. Within one week of filing fully briefed motions, the parties are to contact the Court to set a mutually acceptable date for oral argument.

All motions for summary judgment must comply with Rule 56 of the Federal Rules of Civil Procedure as well as Local Civil Rule 56.1. If the non-movant is proceeding *pro se*, the movant must also comply with Local Civil Rule 56.2.

III. PRETRIAL PROCEDURES IN CASES BEFORE MAGISTRATE JUDGE BROWN FOR ALL PURPOSES

A. *Joint Pretrial Orders.* On the date specified in the scheduling order, the parties shall submit a joint pretrial order which includes the following:

1. the full caption of the action;
2. the names, addresses (including firm names), telephone and fax numbers of trial counsel;
3. a brief statement as to the basis of subject matter jurisdiction or its absence. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount;
4. a brief summary by each party of its claims and defenses that remain to be tried. Such summary shall include citations to all statutes on which the party is relying, but shall not include reference to evidentiary matter;
5. a statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed;
6. any stipulations or statement of facts that have been agreed to by all parties;
7. a list by each party of the fact and expert witnesses whose testimony will be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify except for good cause shown;
8. a designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party; and
9. a list of exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties who will be offering them. Where possible, the schedule must also include potential impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties must list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody, and related grounds. Only the exhibits listed will be received in evidence except for good cause shown. All exhibits must be pre-marked for the trial, placed in binders with tabs, and exchanged with the other parties at least 10 days before trial.

B. Filings Prior to Trial. Unless otherwise ordered by the Court, each party shall electronically file the following items 15 days prior to the commencement date of trial:

1. Proposed Voir Dire Questions;
2. Requests to Charge limited to the elements of the claims, the damages sought, and defenses. General instructions will be prepared by the Court. Proposed jury charges must also be submitted on a CD in WordPerfect format; and
3. Motions *in Limine*: all motions addressing any evidentiary or other issues should be resolved *in limine*. Any opposition should be filed seven days prior to jury selection. Any reply should be made in the same manner three days prior to jury selection.

IV. CONSTRUCTION: These individual practice rules shall not curtail or otherwise limit Magistrate Judge Brown's discretion over all matters relating to cases over which he presides. In addition, these rules shall not be construed to limit the authority of any judicial officer assigned to a particular case.

Effective Date: November 16, 2011